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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,672

03/24/2004

Mark D'Andreta

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,672	<b>Applicant(s)</b> D'ANDRETA, MARK	
	<b>Examiner</b> Tri M. Mai	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 20-29 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 20-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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1. Claims 1-3, 6, 7, 9, 10, 20, and 22-24 are rejected under 35 U.S.C. 102 (b) as being anticipated by Tsui (6085449). Tsui teaches a device with a band portion and a transparent window 10a (col. 3, ln. 7).

With respect to the new limitation that the free ends of the window being permanently interconnected with the free ends of the bands, it is submitted that the term “permanently” is broad and one can leave the attachment between the band and the window permanently as claimed.

2. Claim 21 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Tsui. It would have been obvious for one of ordinary skill in the art to provide the dimension as claimed to provide the desired size for the band.

3. Claims 4, and 25 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tsui in view of Brady (5704067). It would have been obvious for one of ordinary skill in the art to provide absorbing foam material as taught by Brady, col. 2, ln. 20-22, to provide the desired material for the band.

4. Claims 5, 8, 23, and 26-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Tsui rejections, as set forth in paragraphs 1 and 3, and further in view of DeWoskin (4606079), and further in view of Brosk (3577604). DeWoskin teaches that it is known in the art to provide heat seal for attaching the end of a strap, col. 5, ln. 25-32. It would have been obvious for one of ordinary skill in the art to provide heat seal for attaching the two ends of the strap to the device to provide the desired attachment to the device.

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Brosk teaches that it is known in the art to provide further evidence that it is known to provide an endless loop for an armband with the attachment of an elastic band at the two ends. Thus, to provide such an endless loop on the device of Tsui would have been obvious.

5. Claims 1, 2, 7, 9, and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Hucknall, or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Hucknall in view of Harris (4499741). Hucknall teaches a band portion 13 circumferentially surrounding a substantial portion of the watch, a transparent window 7 interconnecting the free ends of the band portion. It is noted that the term band portion is defined as the only main band portion 13 in Hucknall the term “band portion” is broad and interpreted as a portion of the band. In this case, portion 13 of the band is a portion of the band and this portion has two end connected to the two ends of the cover as claimed.

In the alternative, Harris teaches that it is known in the art to provide a band 30 being attached at two ends. It would have been obvious to one of ordinary skill in the art to have the two end of the band attached to the two ends of the cover to provide an alternative band for the cover.

Regarding claim 21, it would have been obvious for one of ordinary skill in the art to provide the dimension as claimed to provide the desired size for the user.

6. Claims 3 and 4 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hucknall rejections as set forth in paragraph 5, and further in view of Brady (5704067). It would have been obvious for one of ordinary skill in the art to provide absorbing foam material as taught by Brady, col. 2, ln. 20-22, to provide the desired material for the device.

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7. Claims 5, and 10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Hucknall rejections as set forth in paragraph 5, and further in view of Lerro (4078660). Lerro teaches that it is known in the art to provide heat seal for an arm band, 43, and 19. It would have been obvious for one of ordinary skill in the art to provide heat seal to attach the plastic material to the band to provide an alternative means for attaching the plastic material to the band.

8. Claim 6 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Hucknall rejections as set forth in paragraph 5, and further in view of Worth (5924135) or Karpf (1857195). It would have been obvious for one of ordinary skill in the art to provide clear plastic film as taught by either Worth or Karpf to provide the desired material for covering the watch.

9. Claims 8, and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Hucknall rejection as set forth in paragraph 5, and further in view of Brady and Lero. It would have been obvious for one of ordinary skill in the art to provide absorbing foam material as taught by Brady, col. 2, ln. 20-22, to provide the desired material for the device.

With respect to the heat sealing, it would have been obvious for one of ordinary skill in the art to provide heat seal to attach the plastic material to the band to provide an alternative means for attaching the plastic material to the band.

10. Applicant's arguments have been fully considered but they are not persuasive. It is noted that the claims as amended does not read over the prior art of record. For the Tsui reference, as set for above, the term "permanently" is broad and one can leave the attachment between the band and the window permanently as claimed thus needing no additional fastening step. With respect to the Hucknall reference, it is submitted that the term "band portion" can be interpreted

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as a portion of the band. In this case the portion 13 of the band having two ends permanent seal to the two ends of the cover portion 8.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tri M. Mai/  
Primary Examiner, Art Unit 3781